37. Misbranding of Pen-E-Scope. U. S. v. 500 Packages of Pen-E-Scope. Default decree of condemnation and destruction. (F. D. C. Nos. 117, 119. Sample Nos. 42654–D, 58910–D.)

On January 13, 1939, the United States attorney for the Western District of New York filed a libel against 500 packages of Pen-E-Scope at Buffalo, N. Y., which had been consigned by Marney Products Co. from Chicago, Ill. On January 14, 1939, the United States attorney for the Southern District of Ohio filed a libel against 500 packages of Pen-E-Scope at Cincinnati, Ohio, alleging that the article had been transported from Chicago, Ill., by Paul Oleson in his own automobile. The libel alleged that the article had been shipped in interstate commerce on or about December 21, 1938, and January 2, 1939; and charged that it was misbranded. It was labeled in part: "Pen-E-Scope Laboratories * * * Chicago, Ill."

The medicament for use with the device consisted essentially of eucalyptus oil with small proportions of pine oil, camphor, menthol, and acetone.

The article was alleged to be misbranded in that it was dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the labeling, which directed that the rounded end of the device be inserted into the nostril, that the mouthpiece be grasped between the lips and that the user should blow steadily—not too hard at first—and that the longer one blew, the deeper the medicated vapor penetrated into the nasal cavities.

On February 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

38. Misbranding of Peranol. U. S. v. 21 Packages of Peranol with Special Medicator (and 3 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. D. C. Nos. 107, 122, 130, 131. Sample Nos. 32671–D, 36550–D, 36551–D, 58805–D.)

On or about January 4, 20, and 26, 1939, the United States attorneys for the Western District of Michigan, the District of Kansas, and the Southern District of Indiana filed libels against the following consignments of Peranol with Special Medicator: 21 packages at Grand Rapids, Mich.; 18 packages at Topeka, Kans.; and 9 packages at Indianapolis, Ind. The libels alleged that the article had been shipped in interstate commerce within the period from on or about October 12 to on or about December 6, 1938, by Peranol Products from Chicago, Ill.; and that it was misbranded.

The medicament with this device was labeled: "Peranol Nasal Emollient." It consisted of a mixture of volatile oils including eucalyptus oil, camphor, and menthol, and alcohol (approximately 19 percent).

The device was alleged to be misbranded in that it was dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the labeling which directed that the user place the glass mouthpiece between the lips, hold the nasal medicator to the nostril, and blow gently; and stated that the warm air picks up the medication as it passes through the medicator, breaking it into a very fine spray, the force of the breath tending to carry it to all exposed or accessible parts of the mucous membrane that lines the head passages, at the same time closing off the opening from the head passages to the throat by the action of the breath on the soft palate; and that this action tends to permit the medication, with its stimulating, soothing qualities, to be properly administered to all accessible parts of the membrane.

One of the lots seized at Indianapolis, Ind., was alleged to be misbranded in violation of the Food and Drugs Act of 1906, reported in notice of judgment No. 30884 published under that act.

On February 27, April 7, and April 28, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

39. Misbranding of Hed Klear. U. S. v. 21 Packages and 9 Packages of Hed Klear. Default decrees of condemnation and destruction. (F. D. C. Nos. 120, 204. Sample Nos. 36141–D, 64026–D.)

On January 16 and March 24, 1939, the United States attorneys for the Northern District of California and the Eastern District of Washington filed libels against 21 packages of Hed Klear at San Francisco, Calif., and 9 packages of Hed Klear at Walla Walla, Wash.; alleging that the article had been shipped in interstate commerce on or about October 28, 1938, by the Van Patten Pharmaceutical Co. from Chicago, Ill.; and charging that it was misbranded.

Enclosed in the carton with each device was a bottle of "Hed Klear Essence," which consisted of a mixture of volatile oils (including eucalyptus oil and menthol), alcohol, acetone, and water.

The article was alleged to be misbranded in that it was dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the labeling, which directed that the user place the tip of the metal barrel into the nostril, then place the glass mouthpiece at end of the tube between the lips and blow, very gently at first, then gradually increasing the pressure to suit himself, alternating from nostril to nostril, as desired. The labeling further stated that the longer one blew, the deeper the vapors of the essence penetrated into the nasal cavities; and contained a sketch of the apparatus in use, with a legend which represented that the breath carries the vapors through the nasal passages to all inflamed irritated parts, thus affording relief from discomfort of head colds, rhinitis, nasal catarrh, sinus irritation, and hay fever.

The article was also alleged to be misbranded in violation of the Food and Drugs Act of 1906, reported in notice of judgment No. 30879 published under that act.

On May 10 and July 19, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

40. Misbranding of Nazoscope. U. S. v. 133 Devices, labeled in part "Nazoscope" (and 5 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. D. C. Nos. 113, 175, 178, 200, 201, 385. Sample Nos. 39565–D, 40915–D, 40918–D, 41370–D, 41599–D, 50598–D.)

Between January 20 and August 14, 1939, the United States attorneys for the Districts of Oregon, Idaho, and Utah filed libels against the following consignments of Nazoscope: 133 packages at Portland, Oreg.; 11 packages at Boise, Idaho; 18 packages at Idaho Falls, Idaho; 63 packages at Salt Lake City, Utah; and 115 packages at Ogden, Utah. The libels alleged that the article had been shipped in interstate commerce within the period from on or about September 5, 1938, to on or about May 15, 1939, by the Murray Laboratories, in various shipments from Pacific Palisades, San Francisco, and Santa Monica, Calif.; and charged that it was misbranded.

The accessory medicament, labeled "Nazone," consisted essentially of volatile oils (including spearmint oil), alcohol, and water.

Misbranding was alleged in that the article was dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the labeling, which contained directions that the wick be saturated with Nazone, the appliance inserted into the nostril; that the glass mouthpiece on end of rubber tube be placed between the lips and that the user blow gently, gradually increasing the pressure until the effects could be felt deep in the nasal passages.

Between the dates of March 27 and October 9, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

REDUCING PREPARATIONS

41. Misbranding of O. B. C. Capsules. U. S. v. 138 Packages of O. B. C. Capsules. Default decree of condemnation and destruction. (F. D. C. No. 212. Sample No. 42247–D.)

These capsules contained thyroid and phenolphthalein. They would be dangerous to health when used in the dosage or with the frequency prescribed, recommended, or suggested in the labeling, which contained directions that one capsule be taken three times a day one-half hour before meals for best results. Its labeling failed to reveal facts material with respect to the consequences which might result from its use under the conditions of use prescribed in the said directions and in a circular in which it was recommended as a valuable aid in the treatment of obesity and which contained representations, among others, that it would promote the combustion of fats, thereby bringing about gradual and appreciable loss of weight; that such loss could be accelerated by eating sparingly of starchy foods, fats, and sugars, but that such regulation of diet was not necessary since the article would reduce without dieting. Its label also failed to bear warnings against its use in those pathological conditions where its use might be dangerous to health or against unsafe doses or duration of administration in such manner and form as are necessary for the protection of users.